



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

### VALLEY REGIONAL OFFICE

Molly Joseph Ward  
Secretary of Natural Resources

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David K. Paylor  
Director

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Regional Director

**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
PM Properties, Inc.  
FOR  
VA0119  
Facility ID No. 6002412**

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and PM Properties, Inc., for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
4. "Facility" means the physical location where the UST and/or UST system is installed and/or operated, known as VA0119 located at 210 Laurel Hill Road in Verona, Virginia.

The Facility's UST and/or UST system are owned and operated by PM Properties, Inc., and the Facility is further identified by UST Facility ID# 6002412.

5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
6. "Operator" means any person in control of, or having responsibility for, the daily operation of the UST system as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
7. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
8. "Owner" means any person who owns an UST system used for storage, use, or dispensing of regulated substances as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
9. "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, association, any state or agency thereof, municipality, county, town, commission, political subdivision of a state, any interstate body, consortium, joint venture, commercial entity, the government of the United States or any unit or agency thereof.
10. "PM Properties" means PM Properties, Inc. a corporation authorized to do business in Virginia, and its affiliates, partners, and subsidiaries. PM Properties is a "person" who owns or operates the Facility. In addition, PM Properties, Inc. is a wholly owned business unit of CrossAmerica Partners LP.
11. "Regulated Substance" means an element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health or welfare, or the environment, as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
12. "Regulations" means the Underground Storage Tanks: Technical Standards and Corrective Action Requirements, 9 VAC 25-580-10 *et seq.*
13. "Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.
14. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 9 (Va. Code §§ 62.1-44.34:8 through 62.1-44.34:9) of the State Water Control Law addresses Storage Tanks.
15. "Underground Storage Tank", "UST", or "UST system" means any one or combination of tanks (including underground pipes and dispensers connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the

volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.

16. "Va. Code" means the Code of Virginia (1950), as amended.
17. "VAC" means the Virginia Administrative Code.
18. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. PM Properties is the owner of the Facility located at 210 Laurel Hill Road in Augusta County, Virginia. PM Properties stores regulated substances in the form of gasoline, diesel, and kerosene in five underground storage tanks (USTs) at the Facility.
2. On May 31, 2016, DEQ issued a Formal Inspection Notification Letter (FINL) to the Facility providing advance notice of a UST compliance inspection to be conducted by DEQ at the Facility on July 21, 2016. Included in the FINL was a request for the following records to be available:
  - a. Twelve most recent months of release detection records;
  - b. Corrosion protection records;
  - c. Evidence of proper overfill prevention;
  - d. Evidence of proper spill prevention;
  - e. Current registrations;
  - f. Class A, B, and C operator training certification documentation.
3. On July 21, 2016, DEQ staff conducted a formal inspection of the USTs at the Facility. File and UST registration documents were also reviewed. The inspection found deficiencies in testing and recordkeeping requirements for:
  - a. pipe release detection for Tanks 1M, 2M, 3, 4, and 5;
  - b. tank release detection for Tanks 1M, 2M, 3, 4, and 5;
  - c. pipe corrosion protection for Tanks 1M, 2M, 3, 4, and 5;
  - d. tank corrosion protection for Tanks 1M, 2M, 3, 4, and 5;
  - e. Class A, Class B, and Class C operator training.
4. On July 22, 2016, DEQ issued a Request for Compliance Action (RCA) to the Facility requesting that complete records for the deficiencies found in the July 21, 2016 inspection be provided by October 20, 2016.
5. As of October 20, 2016, none of the requested records had been submitted to DEQ by the Facility.
6. On October 31, 2016, DEQ issued Warning Letter WL No. TVRO174378 to the Facility requesting that complete records for the deficiencies found in the July 21, 2016 inspection be provided by January 29, 2017.

7. On January 30, 2017, the Facility submitted complete records for pipe corrosion protection and tank corrosion protection for Tanks 1M, 2M, 3, 4, and 5, resolving the deficiencies listed in paragraph 3c and 3d above.
8. On February 15, 2017, the Facility submitted complete records for pipe release detection for Tanks 1M, 2M, 3, 4, and 5. In addition, the Facility submitted complete records for Class A, Class B, and Class C operator training. These submittals resolved the deficiencies listed in paragraph 3a and 3e above.
9. On February 21, 2017, DEQ issued Notice of Violation NOV No. 17-02-VRO-002 to PM Properties for the following violations:

- a. Records were not immediately available for inspection at the Facility or made readily available at an alternative site or provided for inspection upon request for Tanks 1M, 2M, 3, 4, and 5.

9 VAC 25-580-120(2)(c) states: Owners and operators of UST systems must maintain records demonstrating compliance with release detection requirements.

9 VAC 25-580-180 states: "All UST system owners and operators must maintain records in accordance with 9 VAC 25-580-120 demonstrating compliance with all applicable requirements of this part."

- b. Release detection for Tanks 1M, 2M, 3, 4, and 5 was not being maintained.

9 VAC 25-580-130 states: "Owners and operators of new and existing UST systems must provide a method or combination of methods, of release detection that: Can detect a release from any portion of the tank and the connected underground piping that routinely contains product; Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and serve checks for operability or running condition; and Meets the performance requirements in 9 VAC 25-580-160 or 9 VAC 25-580-170..."

9 VAC 25-580-140(C)(1) states: Owners and operators of petroleum UST systems not required to have secondary containment must provide release detection for tanks, and tanks must be monitored at least every 30 days for releases using one of the methods listed in subdivisions 4 through 8 of 9VAC25-580-160.

10. On February 22, 2017, CrossAmerica Partners, on behalf of the Facility, submitted release detection records for Tanks 1M, 2M, 3, 4, and 5 for the months of December 2016, January 2017, and February 27, 2017.
11. Based on the results of July 21, 2016 inspection, and the documentation submitted on January 30, 2017 and February 15, 2017 the Board concludes that PM Properties has

violated 9 VAC 25-580-120, 9 VAC 25-580-130, 9 VAC 25-580-140(C)(1), and 9 VAC 25-580-180, as described in paragraphs C(3) through C(9), above.

12. In order for PM Properties to return to compliance, DEQ staff and representatives of PM Properties have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders PM Properties, and PM Properties agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$6,825 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

PM Properties shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Petroleum Storage Tank Fund (VPSTF). If the Department has to refer collection of moneys due under this Order to the Department of Law, PM Properties shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of PM Properties for good cause shown by PM Properties or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, PM Properties admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. PM Properties consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. PM Properties declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by PM Properties to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. PM Properties shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. PM Properties shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. PM Properties shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and PM Properties. Nevertheless, PM Properties agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. the Director or his designee terminates the Order after PM Properties has completed all of the requirements of the Order;
  - b. PM Properties petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to PM Properties.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve PM Properties from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by PM Properties and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of PM Properties certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind PM Properties to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of PM Properties.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, PM Properties voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

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Amy T. Owens, Regional Director  
Department of Environmental Quality

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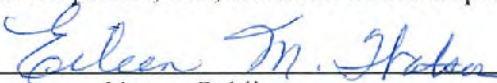


PM Properties, Inc. voluntarily agrees to the issuance of this Order.

Date: 3/22/2017 By:   
David Hrinak, Executive Vice President  
PM Properties, Inc.

Commonwealth of Pennsylvania  
City/County of Lehigh

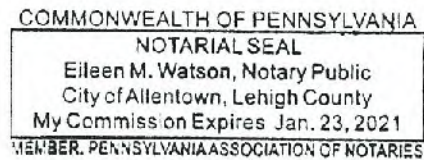
The foregoing document was signed and acknowledged before me this 22 day of  
March, 2017, by David Hrinak who is  
Executive Vice President of PM Properties, Inc., on behalf of the corporation.

  
Notary Public

1247285  
Registration No.

My commission expires: 1-23-2021

Notary seal:



## **APPENDIX A SCHEDULE OF COMPLIANCE**

### **Leak Detection Testing and Recordkeeping**

From the effective date of this Order and extending through September 30, 2017, PM Properties shall perform monthly release detection for Tanks 1M, 2M, 3, 4, and 5 in accordance with 9 VAC 25-580-130 and 9 VAC 25-580-140 and submit copies of these test results to DEQ by the 10<sup>th</sup> of each month.

#### **1. DEQ Contact**

Unless otherwise specified in this Order, PM Properties shall submit all requirements of Appendix A of this Order to:

Tamara Ambler  
Enforcement Specialist Senior  
VA DEQ –Valley Regional Office  
4411 Early Road]  
(540) 574-7896  
(540) 574-7878  
tamara.ambler@deq.virginia.gov